

## **NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**CITIZENS FOR CIVIC  
ACCOUNTABILITY,**

**Plaintiff and Appellant,**

**v.**

**TOWN OF DANVILLE,**

**Defendant and Respondent;**

**DAVIDON HOMES,**

**Real Party in Interest and  
Respondent.**

**A121899**

**(Contra Costa County  
Super. Ct. No. CIV-MSN07-1359)**

**ORDER MODIFYING OPINION  
AND DENYING REHEARING  
[NO CHANGE IN JUDGMENT]**

**BY THE COURT:**

It is ordered that the opinion filed herein on October 14, 2009, be modified as follows:

At the end of the first full paragraph under the Disposition on page 31, after the sentence ending “in accordance with the views expressed herein,” add the following sentence “On remand, the trial court is directed to consider Citizens’s section 21168.9, subdivision (a)(2), request.” so that the paragraph reads as follows:

The judgment is reversed and remanded with directions to the trial court to: (1) enter a judgment granting the writ of mandate petition, and (2) issue a peremptory writ of mandate directing Town to (a) set aside its certification of the MND for the Project and (b) to prepare an EIR in compliance with CEQA in accordance with the views

expressed herein. On remand, the trial court is directed to consider Citizens's section 21168.9, subdivision (a)(2), request.

There is no change in the judgment.

The "Request for Modification Without Change in Judgment" filed on October 23, 2009, by appellant Citizens for Civic Accountability is deemed a petition for rehearing and is denied.

Dated: \_\_\_\_\_, P.J.